UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE ON PROPOSED TARIFF LEGISLATION [1]

[**Date approved**: July 2, 2001][2]

Bill No.: S. 834; 107th Congress

Introduced by: Mr. MURKOWSKI (for himself, Mr. BINGAMAN, and Mr. KYL)

Similar and/or related[3] bills: H.R. 1141, 107th Congress; H.R. 1067, 107th Congress (duty suspension).

Summary of the bill:[4]

The bill would permanently eliminate the general rate of duty[5] on--

> Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear reactors (provided for in subheading 8402.11.00)

For ease of reference, this product will be referred to as "steam generators" throughout the remainder of the report. The statements referred to herein were submitted for the identical companion bill, H.R. 1141.

Effective: The 15th day after the date of enactment.

Through: n/a

Retroactive effect: To January 1, 2000.

[*The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.*]

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[1] International trade analyst: Dennis Fravel (202-205-3404); attorney: Jan Summers (202-205-2605).

[2] Access to an electronic copy of this memorandum is available at *http://www.usitc.gov/billrpts.htm*. Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

[3] "Similar bills" are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. "Related bills" are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

[4] The product nomenclature is as set forth in the bill. See technical comments for suggested changes (if any).

[5] See appendix A for definitions of tariff and trade agreement terms.

– THE PROPONENT AND THE IMPORTED PRODUCT –

The proponent firm/organization(s)			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No)[6]
The Southern Companies	Washington, DC[1]	April 25, 2001	Yes

[1] The Southern Companies, a utility company, is also supported by other utilities in this matter:
Alliant Energy, Madison, WI
Arizona Public Service Company, a subsidiary of Pinnacle West Capital Corporation, Phoenix,AZ
Entergy Corporation, New Orleans, LA
Excel Energy, Minneapolis, MN
Reliant Energy, Houston, TX
Southern Company, Atlanta, GA
Tennessee Valley Authority, Knoxville, TN
Wisconsin Public Service Corporation, a subsidiary of WPS Resources, Green Bay, WI

*Does the proponent plan **any** further processing or handling[7] of the subject product after importation to its facilities in the United States (Y/N)*: No.

If "Yes," provide location of this facility if different from above (city/state):

If "No," provide location of proponent's headquarters or other principal facility if different from above (city/state): n/a

Imported steam generators of the type provided for in this bill will likely be replaced and used by the proponents and other users at the following locations:

During 2000-2005:

- Alliant Energy Corporation and WPS Resources Corporation for nuclear power plants at Prairie Island 1,Red Wing, MN and Kewaunee Nuclear Power Plant, Kewaunee, WI.
- Arizona Public Service Company for Palo Verde 2 nuclear power plant, Wintersburg, AZ.
- The Southern Companies for nuclear power plants, Joseph Farley 1 & 2, Dothan, AL.
- Westinghouse Electric Company or its customers at U.S. nuclear power plants, including:

Nuclear power plant	City	State
Arkansas Nuclear 2	Russellville	AK
Waterford 3	Taft	LA

[6] Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.
[7] The phrase "further processing or handling" can include repackaging, storage or warehousing for resale, etc.

Callaway 1	Fulton	MO
Salem 2	Salem	NJ
Sequoyah 1	Daisy	TN
South Texas 2	Bay City	TX

During 2005 through 2025 (potential):

- The Southern Companies for PWR nuclear power plants Alvin W. Vogtle 1 & 2 plants, Waynesboro, GA.
- Westinghouse Electric Company or its customers at the following U.S. nuclear power plants:

Nuclear power plant	City	State
Diablo Canyon 1	Avila Beach	CA
Diablo Canyon 2	Avila Beach	CA
San Ofofre 2	San Clemente	CA
San Ofofre 3	San Clemente	CA
St. Lucie 2	Ft. Pierce	FL
Braidwood 2	Braidwood	IL
Bryon 2	Byron	IL
Wolf Creek	Burlington	KS
Maine Yankee	Wiscasset	ME
Fort Calhoun 1	Fort Calhoun	NE
Seabrook 1	Seabrook	NH
Indian Point 2	Buchanan	NY
Beaver Valley 1	Shippingport	PA
Beaver Valley 2	Shippingport	PA
Three Mile Island	Middletown	PA
Catawba 2	Clover	SC
Sequoyah 2	Daisy	TN
Watts Bar 1	Spring City	TN
Commanche Peak 1	Glen Rose	TX
Commanche Peak 2	Glen Rose	TX

The imported product	
Description and uses	Country(s) of origin
The only type of watertube boiler with steam production exceeding 45 metric tons per hour, for use in nuclear facilities, is a steam generator for use with a nuclear reactor in a pressurized water reactor (PWR) plant. In such a plant, reactor coolant (water) is pumped under pressure through the reactor core where heat is transferred from the nuclear fuel to piping carrying the reactor coolant. The water then continues into a steam generator, a large heat exchanger. Inside the steam generator, steam is formed in another piping system and is transferred to the main steam turbine, where electricity is generated. The reactor coolant is returned to the reactor. Inside the steam generator, hot reactor coolant flows through many tubes. Heat from the reactor coolant--the primary coolant system--is transferred to a secondary coolant, or feedwater, that surrounds the tubes carrying the primary coolant. When sufficient heat is absorbed, the feedwater boils and forms steam. At this point in the process, differences in steam generator vendor designs exist. In the Westinghouse and ABB-Combustion Engineering[1] (ABB-CE) designs, the steam and water mixture is separated in two stages. In the first stage, the mixture is spun to cause most of the water to separate out. In the second stage, the remaining steam and water are separated by a forced rapid change in direction, with the drier steam leaving the water behind. In these designs, the primary coolant flows through U-shaped tubes. In the Babcock & Wilcox design, the steam is heated above the boiling point, or superheated, causing the steam to separate from any water. In this design, the primary coolant flows from the top of the generator to the bottom. Regardless of design, dry steam is required to avoid damage to the blades on the steam turbines. PWR nuclear plants using an ABB-CE or Babcock & Wilcox designs each use 2 steam generators, while those with Westinghouse designs use 2, 3, or 4 steam generators, depending upon the power output of the PWR system. Steam generators in nuclear power plants are being replaced because of corrosion of their tubes; there are 3,000 or more tubes per steam generator. These generators weigh from 400 to 900 tons each and may be 40 feet tall. The time from ordering to delivery is 4-5 years. Steam generators cost from $15 million to $30 million each, depending upon size. The life span of a steam generator is about 40 years. The generators are classified in the Harmonized Tariff Schedule of the United States (HTS) in subheading 8402.11.00. See U.S. Customs Service Ruling Letter, NY D88567, Mar. 19, 1999.	France, Italy, Korea, Republic of (South Korea) Spain

[1]Combustion Engineering was purchased by ABB in 1990 and became known as ABB-CE. Westinghouse became a subsidiary of British Nuclear Fuels plc in 1999, as did ABB-CE in May 2000.

– EFFECT ON CUSTOMS REVENUE –

[*Note: This section is divided in two parts. The first table addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second table addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (if a different number has been recommended). Five-year estimates are given based on Congressional Budget Office "scoring" guidelines. If the indicated duty rate is subject to "staging" during the duty suspension period, the rate for each period is stated separately.*]

HTS number *used in the bill*: 8402.11.00[8]					
	2002	2003	2004	2005	2006
General rate of duty[9] (AVE)[10]	4.9%[1]	4.9%[2]	5.2%	5.2%	5.2%[3]
Estimated value ***dutiable*** imports	$351,600,000[4]	([5])	$25,000,000	$221,000,000	$750,000,000[3]
Customs revenue loss	$17,420,919[4]	([5])	$1,300,000	$11,500,000	$39,000,000[3]

[1]The bill is retroactive to January 1, 2000; dutiable import and revenue loss data are included for the 2000-2002 period. In estimating customs revenue loss, the general rate of duty of 5.2 percent ad valorem was used for January 1, 2000 through November 23, 2000, and a rate of duty of 4.9 percent ad valorem was used as provided in the temporary duty reduction under HTS subheading 9902.84.02. The duty reduction became effective for imports entered on or after November 24, 2000 until January 31, 2003. Further, eligible imports must also have been "purchased pursuant to a binding contract entered into on or before the date of the enactment of this Act [Public Law 106-476]." See Public Law 106-476, section 1268, 114 Stat. 2137. When the second criterion is not met, the imports should be dutiable at the general rate of 5.2% ad valorem.

[2]Temporary duty reduction rate, see footnote 1 above.

[3]The tariff rate, estimated dutiable imports, and Customs revenue loss are estimates for 2006 through 2025, as factors related to technology and policy issues may change thereafter.

[4]For 2000, estimated dutiable imports are $96,200,000 with a Customs revenue loss of $4,906,319; for 2001, estimated dutiable imports are $55,400,000 with a Customs revenue loss of $2,714,600; and for 2002, estimated dutiable imports are $200,000,000 with a Customs revenue loss of $9,800,000.

[5]Based on available information, it is unlikely that there will be any dutiable imports in 2003.

Note: Dutiable imports and customs revenue loss were estimated based upon the number of PWR nuclear plants likely to have steam generators replaced during 2000-2006. Information for these estimates was obtained from the U.S. Nuclear Regulatory Commission internet site, official statistics of the U.S. Department of Commerce, and submissions from interested parties, and other publicly available information.

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[8] The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).

[9] See appendix B for column 1-special and column 2 duty rates.

[10] AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: *http://dataweb.usitc.gov*

HTS number *recommended by the Commission*: n/a [11]					
	2002	2003	2004	2005	2006
General rate of duty (AVE)					
Estimated value *dutiable* imports					
Customs revenue loss					

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

Contacts with firms or organizations *other than* the proponents			
Name of firm	Location contacted (city/state)	Date contacted	Response received? (Yes/No)[12]
McDermott International Inc. Washington Operations	Arlington, VA	April 19, 2001	Yes

– THE DOMESTIC INDUSTRY –

[*Note: This section is divided in two parts. The first part lists non-confidential written submissions received by the Commission which assert that* ***the imported product itself*** *is produced in the United States and freely offered for sale under standard commercial terms. The second part lists non-confidential written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which* ***may compete*** *with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission in connection with this bill prior to approval of the report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.*]

[11] If a different HTS number is recommended, see technical comments.

[12] Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

Statements concerning current U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
Components and services used in the production of steam generators	McDermott International Inc. Washington Operations	Barberton, OH Mount Vernon, IN[1]	April 30, 2001

[1]McDermott International also states that it uses 14 suppliers located in 12 states in its production operations.

Statements concerning "future" or "competitive" U.S. production			
Name of product	Name of firm	Location of U.S. production facility	Date received
Components and services used in the production of steam generators	McDermott International Inc. Washington Operations	Barberton, OH Mount Vernon, IN[1]	April 30, 2001

[1]McDermott International also states that it uses 14 suppliers located in 12 states in its production operations.

– TECHNICAL COMMENTS –

[The Commission notes that references to HTS numbers in temporary duty suspensions (i.e., proposed amendments to subchapter II of chapter 99 of the HTS) should be limited to ***eight digits****. Ten-digit numbers are established by the Committee for Statistical Annotation of Tariff Schedules pursuant to 19 U.S.C. 1484(f) and are not generally referenced in statutory enactments.]*

Recommended changes to the nomenclature in the bill:

It is suggested that the article description in new subheading 8402.11.10 be amended by striking the existing text and inserting in lieu thereof the following: "Steam generators for use in pressurized water nuclear reactors". This language would not only utilize the product name commonly employed in the industry but would also avoid covering other boilers that may be used at nuclear facilities.

Recommended changes to any CAS numbers in the bill (if given):

None.

Recommended changes to any Color Index names in the bill (if given):

None.

Basis for recommended changes to the HTS number used in the bill:[13]

n/a

Other technical comments (if any):

The proposed descriptions are "actual use" provisions requiring Customs Service verification of the use of the imports within 3 years of the date of entry; however, while these provisions generally present administrative and compliance burdens, the small range of purchasers in the United States should simplify implementation should the proposed tariff provisions be enacted with such a use criterion. In addition, it should be noted that because the current rate of duty is not scheduled for further reduction, it is not necessary for this bill to contain language that would continue staged reductions previously proclaimed for the existing tariff provision. Last, for clarification, it should be noted that the unit of measure of "t" in the proposed tariff descriptions would be interpreted by Customs as metric tons, rather than the English unit.

[13] The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee's consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the Tariff Schedules of the United States (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are normal trade relations rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those listed in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam) plus Serbia and Montenegro, which are subject to the statutory rates set forth in **column 2**. Specified goods from designated general-rate countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of September 30, 2001. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS. Eligible products of qualifying sub-Saharan African countries may qualify for duty-free entry under the **African Growth and Opportunity Act** (AGOA), under the terms of general note 16 to the tariff schedule, through September 30, 2008, as indicated by the symbol "D" in the special subcolumn and as set forth in subchapter XIX of chapter 98.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS. Eligible products of qualifying beneficiary countries may qualify for duty-free or reduced-duty entry under the **Caribbean Basin Trade Partnership Act** (CBTPA), under the terms of general note 17 to the tariff schedule, through September 30, 2008, as indicated by the symbol "R" in the special subcolumn and in subchapter XX of chapter 98.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX. Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

APPENDIX B

SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

[*Note: Appendix may not be included in the electronic version of this memorandum.*]

Heading/ Subheading	Stat. Suf-fix	Article Description	Unit of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2	Effective Period
9902.71.08	1/	Wire containing 99.9 percent or more by weight of gold and with dopants added to control wirebonding characteristics, having a diameter of 0.05 millimeters or less, for use in the manufacture of diodes, transistors, and similar semiconductor devices or electronic integrated circuits	1/	Free	No change	No change	On or before 12/31/2003
9902.72.02	1/	Ferroboron to be used for manufacturing amorphous metal strip (provided for in subheading 7202.99.50)	1/	Free	No change	No change	On or before 12/31/2003
9902.80.05	1/	Cobalt boron (provided for in subheading 8105.10.30)	1/	Free	No change	No change	On or before 12/31/2003
9902.84.00	1/	Ceramic coater for laying down and drying ceramic (provided for in subheading 8479.89.97)	1/	Free	No change	No change	On or before 12/31/2003
9902.84.02	1/	Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear facilities (provided for in subheading 8402.11.00)	1/	4.9%	No change	No change	On or before 12/31/2003
9902.84.10	1/	Power weaving machines (looms), shuttle type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m (provided for in subheading 8446.21.50), if entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames or beams	1/	Free	No change	No change	On or before 12/31/2001
9902.84.12	1/	Dual thrust chamber rocket engines each having a maximum static sea level thrust exceeding 3,550 kN and nozzle exit diameter exceeding 127 cm (provided for in subheading 8412.10.00)	1/	Free	No change	No change	On or before 12/31/2001
9902.84.16	1/	Bonding machines for use in the manufacture of digital versatile discs (DVDs) (provided for in subheading 8479.89.97)	1/	1.7%	No change	No change	On or before 12/31/2003
9902.84.19	1/	Molds for use in the manufacture of digital versatile discs (DVDs) (provided for in subheading 8480.71.80)	1/	Free	No change	No change	On or before 12/31/2003
9902.84.20	1/	Textile printing machinery (provided for in subheading 8443.59.10)	1/	Free	No change	No change	On or before 12/31/2001
9902.84.30	1/	Assembly machines for assembling anodes to lead frames (provided for in subheading 8479.89.97)	1/	Free	No change	No change	On or before 12/31/2003
9902.84.40	1/	Trimming and forming machines used in the manufacture of surface mounted electronic components other than semiconductors prior to marking (provided for in subheadings 8462.21.80, 8462.29.80, and 8463.30.00)	1/	Free	No change	No change	On or before 12/31/2003
9902.84.43	1/	Ink-jet textile printing machinery (provided for in subheading 8443.51.10)	1/	Free	No change	No change	On or before 12/31/2001

1/ See chapter 99 statistical note 1.

Heading/ Subheading	Stat. Suf-fix	Article Description	Unit of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
8401		Nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation; parts thereof:				
8401.10.00	00	Nuclear reactors	t	3.3%	Free (A,CA,E,IL,J, MX)	45%
8401.20.00	00	Machinery and apparatus for isotopic separation, and parts thereof	t	2.6%	Free (A,CA,E,IL,J, MX)	35%
8401.30.00	00	Fuel elements (cartridges), non-irradiated, and parts thereof	X	3.3%	Free (A,CA,E,IL,J, MX)	45%
8401.40.00	00	Parts of nuclear reactors	t	3.3%	Free (A,CA,E,IL,J, MX)	45%
8402		Steam or other vapor generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers; parts thereof:				
		Steam or other vapor generating boilers:				
8402.11.00	00	Watertube boilers with a steam production exceeding 45 t per hour	t	5.2% 1/	Free (A,CA,E,IL,J, MX)	45%
8402.12.00	00	Watertube boilers with a steam production not exceeding 45 t per hour	t	4.3%	Free (A,CA,E,IL,J, MX)	45%
8402.19.00	00	Other vapor generating boilers, including hybrid boilers	t	5.2%	Free (A,CA,E,IL,J, MX)	45%
8402.20.00	00	Super-heated water boilers	t	3.3%	Free (A,CA,E,IL,J, MX)	45%
8402.90.00		Parts		4.3%	Free (A,CA,E,IL,J, MX)	45%
	10	Heat exchangers	t			
	90	Other	X			
8403		Central heating boilers (other than those of heading 8402) and parts thereof:				
8403.10.00	00	Boilers	No.	Free		45%
8403.90.00	00	Parts	X	Free		45%
8404		Auxiliary plant for use with boilers of heading 8402 or 8403 (for example, economizers, super-heaters, soot removers, gas recoverers); condensers for steam or other vapor power units; parts thereof:				
8404.10.00		Auxiliary plant for use with boilers of heading 8402 or 8403		3.5%	Free (A,CA,E,IL,J, MX)	45%
	10	Economizers	t			
	50	Other	t			
8404.20.00	00	Condensers for steam or other vapor power units	t	5.6%	Free (A,CA,E,IL,J, MX)	45%
8404.90.00	00	Parts	X	3.5%	Free (A,CA,E,IL,J, MX)	45%

1/ See subheading 9902.84.02.

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

[*Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.*]

This electronic submission sent to the USITC should be on letterhead of the Nuclear Energy Institute.

Tariff on Power Plant Steam Generators Should Be Eliminated

Key Facts

■ There is no manufacturing capability in the United States to produce steam generators. Electric companies replacing these huge structures in power plants must import steam generators and pay a 4.9 percent tariff—about $500,000 to $1.25 million per component.

■ Congress in 2000 reduced the tariff on steam generators from 5.2 percent to 4.9 percent in the Miscellaneous Tariff and Duty Suspension Act (PL 106-476). Because there is no U.S. company that produces steam generators, Congress should eliminate the tariff altogether.

■ Thirteen nuclear power reactors are in the process of replacing 34 steam generators during the next five years. Steam generator replacement is vital to continue efficient operation of nuclear power plants and to maintaining low consumer electricity prices for power from nuclear plants.

■ National energy policy initiatives are encouraging improved efficiency and production from domestic electricity sources. Steam generator replacement dramatically improves efficiency, increasing production by about 50 megawatts at large reactors.

With No U.S. Producer, Tariff on Steam Generators Is Unnecessary

Last year, Congress recognized the need to adjust the U. S. tariff on steam generators imported for use at commercial power plants. Congress amended the Miscellaneous Tariff and Duty Suspension Act (PL 106-476), reducing the 5.2 percent tariff to 4.9 percent.

Congress was unable to eliminate the tariff altogether because of restrictions that prohibit such action if the industrywide tariff exceeds $500,000 and if there is opposition to the removal of the tariff.

However, Congress should pass legislation removing the 4.9 percent tariff because there is no capability to produce steam generators in the United States. Westinghouse, the last U.S. manufacturer of steam generators, ceased production at its Pensacola, Fla., facility in 1999.

Steam generators use heated water from the reactor to produce steam, which is used to drive the turbine and generate electricity. Prices of steam generators from abroad vary widely, but range from between $10 million and $25 million for each generator.

BWX-Canada, a subsidiary of New Orleans-based McDermott International, is the only North American producer of steam generators. BWX-Canada—operating at full capacity—is not able to meet U.S. demand, so electric companies have had to import steam generators. Furthermore, BWX-Canada is not licensed to produce most types of U. S. steam generators, so American companies would have to pay additional costs for the redesign for future BWX-Canada replacements.

Tariff on Steam Generators Should Be Eliminated

McDermott International has stated that removal of the tariff would be contrary to provisions of the North American Free Trade Agreement (NAFTA). However, NAFTA was never intended to be a trade protection agreement.

Congress and the committees of jurisdiction (Finance and Ways and Means) on this issue last year rejected concern about NAFTA by approving a tariff reduction, albeit limited because of congressional budget concerns regarding the Miscellaneous Tariff and Duty Suspension Act as a whole. Absent those concerns this year, Congress is considering eliminating the tariff altogether.

Removing Tariff Important to U.S. Energy Security, Low Power Prices

The United States is faced with energy production shortages, particularly in Western states. These electricity shortages will become worse if existing nuclear plants face delays in the acquisition of new steam generators, and electricity prices will be higher if the industry doesn't have access to an open competitive market for steam generators.

The 103 nuclear power plants in 31 states generated a record 755 billion kilowatt-hours of electricity in 2000—more than 20 percent of the nation's total electricity production. Nuclear power plants have the lowest production costs of any large, expandable electricity source, including coal. Actions that maintain stable, low-cost and emission-free electricity production are essential to a vibrant U.S. economy.

Steam generator replacement extends electricity production at nuclear power plants and significantly increases efficiency. For example, each reactor at the Palo Verde nuclear power plant near Phoenix will produce an additional 55 megawatts after replacement of steam generators—more than the total production from a natural gas peaking power plant.

34 Steam Generator Replacements Expected Within 5 Years

Each pressurized water reactor has between two and four steam generators. Therefore, replacement of four steam generators could cost as much as $100 million, and the tariff would be an additional $1 million to $5 million.

There are 69 pressurized water reactors in the United States. Twenty-seven of these reactors have replaced a total of 85 generators in the past 20 years. Thirteen of the remaining 42 reactors are in the process of replacing 34 generators over the next five years. Steam generator replacements are scheduled for nuclear power plants in these states: Arizona, Georgia, Maryland, Minnesota, Missouri, North Carolina, South Carolina, Tennessee, Texas and Wisconsin.

Current national policy initiatives have encouraged "improved efficiency and effectiveness" of domestic electricity generation. Eliminating the tariff on steam generators should be among the policy initiatives Congress undertakes to promote affordable consumer electricity costs, U.S. energy security and diversity of energy supply.

For additional information on nuclear energy issues, visit NEI's Web site: http://www.nei.org

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[*Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.*]

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April 30, 2001

Mr. Dennis Fravel
International Trade Analyst
U.S. International Trade Commission
500 E. Street, S.W.
Washington, DC 20002

Dear Mr. Fravel:

McDermott International Inc. is strongly opposed to the adoption of HR 1067 or HR 1141 which propose to suspend or eliminate tariffs on certain steam or other vapor generating boilers used in nuclear facilities classified under Harmonized Tariff Schedule of the United States (HTSUS) Subheading 8402.11.

McDermott is a leading energy services and manufacturing company providing engineering, procurement, equipment and project management services for customers involved in the production of energy and in other industries. Babcock & Wilcox is a subsidiary of McDermott that manufactures power generation systems, including steam or other vapor generating boilers used in nuclear facilities. McDermott's North American facilities, including those of Babcock & Wilcox, are located in Barberton, Ohio; Cambridge, Ontario, Canada; Ebensburg, Pennsylvania; Lancaster, Ohio; Lynchburg, Virginia; Alliance, Ohio; Melville, Saskatchewan, Canada; Mt. Vernon, Indiana; West Palm Beach, Florida; West Point, Mississippi, Morgan City, Louisiana and Harbor Island, Texas.

Babcock & Wilcox maintains the capability to manufacture steam or other vapor generating boilers for use in nuclear facilities at plants in Cambridge, Ontario, Canada; Mt. Vernon, Indiana and Barberton, Ohio. We have performed significant nuclear boiler manufacturing work in our U.S. facilities (component fabrication, component installation, heavy assembly, final inspection and testing). We conduct virtually all of our research and development in the United States. Our North American manufacturing requires significant procurement of U.S. sourced materials, services and engineered equipment. In the period of 1998-2000 we utilized 14 U.S. suppliers in 12 states to provide product and services strictly for the nuclear replacement steam generators. The value of these purchases exceeded $8 million. We also undertake extensive manufacturing of boilers for non-nuclear use in the United States. Our ability to manufacture boilers for nuclear use in the United States will depend on how future orders develop and the duty on HTSUS Subheading 8402.11 remaining at 5.2%.

There is a great deal of increased activity in the nuclear industry partially as a result of the U.S. energy shortage. This will result in more steam generators orders being placed. Retention of the duty will be a significant factor in whether the steam generators will be manufactured in North America rather than overseas - whether the high value jobs will remain in North America or be shipped overseas.

Criteria utilized by the House Ways and Means Committee and the Senate Finance Committee to determine whether they will proceed with a tariff suspension or elimination is whether the impact on the US Treasury is revenue neutral (i.e., $500,000 or less per year). In calendar year 2000, dutiable imports into the US were $96,208,070. At the applied rate of 5.2% revenue to the US Treasury was $5,002,819. This is just for the year 2000. It can hardly be classified as "revenue neutral".

Attached are enclosures providing information on the expected imports into the US of nuclear replacement steam generators for 2000-2005 (Enclosure 1) and 2006-2010 (Enclosure 2). Replacement steam generator units already awarded and expected to be imported from into the U.S. from Spain, Korea, Italy and France during the 2001-2004 period total an estimated $255 million. Revenue to the US Treasury during this period that would be lost as a result of suspension or elimination of the duty would be $12,570,000. Additional potential awards for delivery by 2005 have an estimated total of $431 million. At an applied 5.2% duty rate this would amount to the potential loss of revenue to the US Treasury of $22.4 million. HR 1067, which proposes to suspend the duty retroactive to January 1, 2000 through the end of 2005, would have a potential cost impact on the US Treasury of a staggering $40.0 million.

Per Enclosure 2, potential dutiable value of orders expected to be delivered in the 2006-2010 timeframe total $810 million with a revenue value to the US Treasury of $42.1 million.

While HR 1067 and HR 1141 propose to suspend or eliminate the U.S. duty on certain products classified under HTSUS Subheading 8402.11, US competitors such as the European Union and Korea, a significant supplier, maintain duties on this product - 2.7% and 8.0 percent, respectively. The elimination of the U.S. duty would be an unwise, unilateral trade concession. The continued existence of duties in the EU and Korea coupled with the concomitant elimination of duties on U.S. imports would undermine the intent of NAFTA and encourage the migration of production from North America to countries outside the region. In addition, it would jeopardize the high value US jobs of our U.S. supplier base and those of our U.S. fossil fuel boiler manufacturing operations.

B&W's North American manufacturing is managed on a capacity basis, combining B&W's nuclear and fossil business. B&W will be placed at a disadvantage on nuclear tenders if the tariff is suspended or eliminated and

would be required to remove work from its U.S. fossil fuel manufacturing facilities to its Canadian facilities in order to better equalize capacity utilization. To the degree B&W can remain competitive on nuclear work, more fossil fueled (coal, oil and gas) will be performed in our U.S. facilities.

In conclusion, the elimination of the 5.2% duty on certain boilers classified under HTSUS Subheading 8402.11 would adversely affect McDermott International and its subsidiary, Babcock & Wilcox, and preclude it from producing such nuclear boilers in the United States. For the reasons stated above, McDermott International and Babcock & Wilcox oppose both HR 1067 and HR 1141 and request that these comments be given serious consideration.

I have also enclosed a copy of my letter to you of May 3, 2000 as well as a brochure on the BWX Technology large nuclear components manufacturing facility in Mt. Vernon, Indiana.

Respectfully,

Bruce N. Hatton

107TH CONGRESS
1ST SESSION

S. 834

To provide duty-free treatment for certain steam or other vapor generating boilers used in nuclear facilities.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2001

Mr. MURKOWSKI (for himself, Mr. BINGAMAN, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To provide duty-free treatment for certain steam or other vapor generating boilers used in nuclear facilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Generator Tariff Elimination Act".

SEC. 2. DUTY-FREE TREATMENT FOR CERTAIN BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Chapter 84 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 8402.11.00 and inserting the following

new subheadings, with the article description for subheading 8402.11 having the same degree of indentation as the article description for subheading 8402.12.00:

"	8402.11	Watertube boilers with a steam production exceeding 45 t per hour				
	8402.11.10	For use in nuclear reactors	Free		45%	
	8402.11.20	Other	5.2%	Free (A, CA, E, IL, J, MX)	45%	".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) APPLICATION TO LIQUIDATIONS OR RELIQUIDATIONS.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (3), any article described in subheading 8402.11.10 of the Harmonized Tariff Schedule of the United States, as added by subsection (a) that was entered, or withdrawn from warehouse for consumption—

(A) on or after January 1, 2000, and

(B) before the date that is 15 days after the date of the enactment of this Act,

shall be liquidated or reliquidated as if such subheading 8402.11.10 applied to such entry or withdrawal, and the Secretary of the Treasury shall re-

fund any excess duty paid with respect to such entry.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to any entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

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